



**CITY OF VICTORVILLE  
CALIFORNIA**

**REQUEST FOR BID**

FOR

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***AUTO BODY REPAIR SERVICES***

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***PROJECT # ES15-065***

Bid Opening Date:  
May 7, 2015

AT

**2:30 P.M.**

CITY OF VICTORVILLE, CALIFORNIA  
NOTICE INVITING BIDS

**ANNUAL SERVICE AGREEMENT  
AUTO BODY REPAIR SERVICES - PROJECT # ES15-065**

- A-1 NOTICE IS HEREBY GIVEN - Sealed bids will be received by the Purchasing Agent of the City of Victorville, California, for **ANNUAL SERVICE AGREEMENT – AUTO BODY REPAIR SERVICES, PROJECT # ES15-065** as described in the specifications for the **ANNUAL SERVICE AGREEMENT – AUTO BODY REPAIR SERVICES**.
- A-2 SEALED BIDS - Notice is hereby given that sealed bids will be received by the Purchasing Agent of the City of Victorville **until 2:30 p.m. (PST) on May 7, 2015 at which time the bids will be publicly opened by the City Clerk in the Finance Conference Room** for the work to be done as described in the document entitled Specifications and Contract Documents for **“AUTO BODY REPAIR SERVICES - Project #ES15-065.”** City hereby gives notice to all bidders that bids received after the time/date stated in the Notice of Inviting Bids will not be accepted and will be returned unopened to the bidder. The time/date shall be governed by the “atomic” clock located above the Finance Conference Room located in the 2<sup>nd</sup> Floor of City Hall. All bids submitted shall be on the Bid Proposal Form provided by the City of Victorville. **E-mailed and faxed bids will not be accepted.**
- A3. OBTAINING BID PROPOSAL FORMS - The Bid Proposal Form, together with a copy of this Notice Inviting Bids, the Instructions to Bidders, and the City of Victorville Specifications for the item(s) to be furnished, may be obtained from the Purchasing Section in the Finance Division of the Administrative Services Department, City of Victorville, 14343 Civic Drive, Victorville, California, 92392, or by calling Elizabeth Salcido at (760) 243-6371.

The City of Victorville Web Page, <http://victorvilleca.gov> under the heading Purchasing Bids will contain a copy of this document as well as a summary of any/all applicable addenda.

A4. AFFIRMATIVE ACTION

The City of Victorville hereby notifies all bidders that it will affirmatively ensure that minority business enterprises will be afforded full opportunity and consideration when submitting bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, creed, or national origin when reviewing the bid proposals for award of contract.

Dated: April 13, 2015

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Marcie Wolters, City Clerk

CITY OF VICTORVILLE  
INSTRUCTIONS TO BIDDERS  
Request for Bid  
**ANNUAL SERVICE AGREEMENT**  
**AUTO BODY REPAIR SERVICES - PROJECT # ES15-065**

1. GENERAL INFORMATION/BIDDER INSTRUCTIONS:

The City of Victorville is requesting bids for repairing damaged or deteriorated surfaces of vehicles and equipment as required for the City fleet which range in size from small cars and pickups to dump trucks and street sweepers.

The term of this contract shall be from the date of award by the City Council, until the end of the **2015-2016** fiscal year (June 30, 2016); with the option to extend the contract for four (4) fiscal years (July 1 through June 30), in one (1) year increments, subject to satisfactory performance as determined by the City of Victorville (contract sample attached).

The City reserves the right to award contract(s) to one or more body shops for the City's requirements of repairs on vehicles.

The City prefers OEM parts, excluding chrome items (i.e. bumpers) unless aftermarket parts are approved, in writing, by an authorized City representative.

The City requires a response time for estimating each individual repair job to be within 48 hours of request by an authorized City representative. Repairs are to be completed within 20 calendar days of the approval to proceed by an authorized City representative. Mission essential designated vehicles will be estimated within 24 hours, and repairs will start as soon as authorization is given by designated City representative.

No bidder shall withdraw their bid for a period of thirty (30) working days after the bid opening date.

ALL bids shall be signed with the firm's name and by an officer or employee of the firm who is duly authorized to sign Bid Proposals.

Bids shall be firm offers, subject to acceptance or rejection within forty-five (45) working days of bid opening. Unit pricing shall reflect F.O.B. Public Works Yard, 14177 McArt Road, Victorville, CA, and shall remain firm for a period of six (6) months from the date of City Council approval. Prices may be renegotiated after the original six (6) months time frame with a cap of three percent (3%) or C.P.I. as listed in the Wall Street Journal, whichever is less.

No contract will be awarded except to responsible bidders capable of performing the class of work contemplated. Before the award of contract, any bidder may be required to show that they have the necessary facilities, experience, ability, and financial resources to perform the work in a satisfactory manner and within the time stipulated. All bidders must be primarily engaged in the car and light/heavy truck body repair business and comply with Environmental Protection Agency (EPA), Occupation Safety and Health Agency (OSHA) and Mojave Air Quality Management District (MAQMD) requirements.

The City reserves the right to inspect the bidder's facility and to perform such investigation as may be deemed necessary to insure that competent personnel and management will be utilized in the

performance of the contract.

Questions concerning this request for bid should be addressed to Elizabeth Salcido, phone 760/243-6371, fax 760/269-0045.

ALL BIDS ARE TO BE SUBMITTED ON THE **BID PROPOSAL FORM** ENCLOSED. ATTACHMENTS ARE ACCEPTABLE AS AN ADDENDUM, NOT IN LIEU OF THIS FORM(S)

2. **PROHIBITED INTEREST**

No member, officer, or employee of the City of Victorville or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

Furthermore, the parties hereto covenant and agree that to their knowledge no board member, officer or employee of the City of Victorville has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the contracting party other than the City of Victorville, and that if any such interest comes to the knowledge of either party at any time, a full and complete disclosure of such information will be made in writing to the other party or parties, even if such interest would not be considered a conflict of interest under Article 4 (commencing with Section 1090) or Article 4.6 (commencing with Section 1120) of Division 4 of Title I of the Government Code of the State of California.

3. **DATE OF OPENING BIDS**

Bids will be received at the Office of the Purchasing Agent for the City of Victorville, 14343 Civic Drive, Victorville, California, 92392, until **2:30 p.m. (PST) on May 7, 2015**, at which time and place the bids will be publicly opened and read aloud, in the Finance Conference Room of City Hall, by the City Clerk. **Bids will be submitted in sealed envelopes, double envelope style, the inside clearly marked "BID PROPOSAL FORM FOR "ANNUAL SERVICE AGREEMENT – AUTO BODY REPAIR, PROJECT #ES15-065."** City hereby gives notice to all bidders that bids received after the time/date stated in the Notice Inviting Bids *will not be accepted and will be returned unopened to the bidder*. The time/date shall be governed by the "atomic" clock located counter located in City Hall. The outside envelope shall be marked to the attention of the Purchasing Agent. All bids submitted shall be on the Bid Proposal Forms provided. Contractor shall complete and return *one (1) original and two (2) copies of their bids.* **Faxed and/or emailed bids will not be accepted.**

4. **EVALUATION OF BIDS**

The City of Victorville reserves the right to accept or reject any and all bids and to award a contract to the bidder who best meets its requirements. Relevant factors which shall be considered in evaluating the bids are: completeness and accuracy of bid; ability to complete the work in the specified time with the specified quality of workmanship; as well as the lowest and best price.

5. **AWARD OF CONTRACT**

The City of Victorville reserves the right to reject any and all bids and waive any irregularities or informalities in any bid or in the bidding process. The City of Victorville further reserves the right to award the contract to other than the lowest Bidder if such action is deemed to be in the best interest of the City of Victorville. The award of the contract, if awarded, will be made within forty-five (45) working days after opening of the Bid Proposals. The bidder's signature on the Bid Proposal Form shall

constitute a commitment on the part of that Bidder to furnish the service as set forth in the Bid Proposal Form, the Specifications, and the Notice Inviting Bids. The Bidder to whom the contract is awarded shall be notified upon approval of the contract by the City Council. The Notice Inviting Bids, the Bid Proposal Form, together with the specifications of the **ANNUAL SERVICE AGREEMENT – AUTO BODY REPAIR SERVICES** proposed to be furnished, shall all be considered as part of the contract between the City and the Bidder to whom a Purchase Order is issued. Furthermore, the bidder to whom the contract is awarded shall provide the **ANNUAL SERVICE AGREEMENT – AUTO BODY REPAIR SERVICES** as set forth herein.

The City of Victorville shall make payment by cash or check within thirty (30) working days after complete acceptance of specified **ANNUAL SERVICE AGREEMENT – AUTO BODY REPAIR SERVICES** by the City of Victorville and receipt of the bidder's priced invoice.

6. TERM OF CONTRACT

The term of this contract shall begin July 2015 and will expire on June 30, 2016 (the end of the City's fiscal year) with the option to extend the contract for four (4) years in one (1) year increments, subject to satisfactory performance as determined by the City of Victorville and possible price negotiations.

7. TERMINATION FOR CONVENIENCE

The City of Victorville may, by written notice, terminate this contract in whole or in part, when deemed in the City's interest. Upon termination of this contract, the City of Victorville shall only be liable for payment under the payment provisions of this contract for services rendered or supplies furnished prior to the effective date of termination.

8. TERMINATION FOR DEFAULT

The City of Victorville, may, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

1. Deliver the supplies or to perform the services within the time specified in this contract or any extension; or
2. Make progress, so as to endanger performance of this contract; or
3. Perform any of the other provisions of this contract.

The City's right to terminate this contract may be exercised if the Contractor does not cure such failure within five (5) working days, after receipt of the written notice from the City of Victorville. Upon termination of the contract with the successful bidder, the City of Victorville may award the contract to the second lowest responsible bidder, if it is deemed to be in the best interests of the City of Victorville.

9. NON-COLLUSION AFFIDAVIT

All bids must be accompanied by a signed and notarized Non-Collusion Affidavit per the Public Contract Code Section 7106.

10. INSURANCE

The Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work here under by the Contractor, their agents, representatives, employees or subcontractors.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, Code I (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage.  
  
If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limits shall be twice the required occurrence limit. (\$2,000,000)
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions that pertains to the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.

The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.

2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
4. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suite is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days prior written notice, by certified mail return receipt requested, has been given to the City.

#### Acceptability of Insurers

Insurance is to be placed with insurers that have a current A.M. Best's rating of no less than A:VII.

#### Verification of Coverage

Contractor shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf.

The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

#### Subcontractors

The Contractor shall include all subcontractors as insureds under the policies, or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all of the requirements stated herein.

#### 11. ATTORNEY'S FEES

Should any litigation, specifically including but not limited to, arbitration and other non-judicial resolution of disputes be commenced between the parties to this agreement concerning this agreement or

the rights and duties of either in relation thereto, the parties prevailing in such litigation or other proceeding shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for attorney fees in such litigation where the proceeding which, if not agreed upon by the parties, shall be determined by the court or other entity in which such litigation or other proceeding is brought.

12. CARE AND CUSTODY

The contractor accepts full responsibility for the security against loss or damage to the equipment involved while in his possession or the possession of any of his agents. Contractor shall reimburse the City for any loss or damage to City equipment in his or his agents care or custody.

13. LICENSES

The contractor shall obtain all necessary licenses and permits to accomplish the work. A City of Victorville Business License is required.

14. INDEMNIFICATION

Notwithstanding the limits of any insurance, Contractor shall indemnify the City, its officials, officers, agents, volunteers and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising or alleged to arise out of or in connection with the negligent performance of the work, operations or activities of Contractor, its agents, employees, subcontractors, or invitees, provided for herein, or arising or alleged to arise from the negligent acts or omissions of Contractor hereunder, or arising or alleged to arise from Contractor's negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, but excluding such claims or liabilities or portion of such claims or liabilities arising or alleged to arise from the negligence or willful misconduct of the City its officials, officers, agents, volunteers or employees, and in connection therewith:

- a. Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
- (b) Contractor will promptly pay any judgment rendered against the City, its officials, officers, agents or employees for any such claims or liabilities arising or alleged to arise out of or in connection with Contractor's (or its agents', employees', subcontractors' or invitees') negligent performance of or failure to perform such work, operations or activities hereunder; and Contractor agrees to save and hold the City, its officials, volunteers, officers, agents, and employees harmless therefrom;
- (c) In the event the City, its officials, officers, agents, volunteers or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising or alleged to arise out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor shall pay to the City, its officials, volunteers officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel acceptable to City.
- (d) Contractor's duty to defend and indemnify as set out in this Section shall include any claims, liabilities, obligations, losses, demands, actions, penalties, suits, costs, expenses or damages or injury to persons or property arising or alleged to arise from, in connection with, as a consequence of or pursuant to any state or federal law or regulation regarding hazardous

substances, including but not limited to the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the Porter-Cologne Water Quality Control Act, as any of those statutes may be amended from time to time.

The Contractor's indemnification obligations pursuant to this Section shall survive the termination of this Agreement. Contractor shall require the same indemnification from all subcontractors.

15. PREFERENCE TO LOCAL VENDORS

The City Council, in awarding bids pursuant to Section 2.28.140 of the Municipal Code, may at its discretion grant qualified local vendors a bidding preference of three percent. Such preference, however, shall not exceed aggregate sum of one thousand dollars for any contract awarded under this project, a "local vendor" is defined as any individual, partnership or corporation which regularly maintains a place of business and an inventory of merchandise for sale within the corporate limits of the city.

16. PUBLIC RECORD

Be advised that **all** information contained in proposals submitted in response to this solicitation **shall** become a matter of public record upon contract award, and be made available upon request, unless otherwise marked. The Bidder must identify, in writing, all copyrighted material, trade secrets or other proprietary information the Bidder claims are exempt from disclosure pursuant to the California Public Records Act and Government Codes regarding public records. The Bidder who claims such an exemption must also state in the proposal that, "The Bidder agrees to indemnify and hold harmless the City and its officers, employees and agents from any claims, liability, or damages against the city and to defend any actions brought against the City for its refusal to disclose such material, trade secrets or other proprietary information to any party."

17. REPRESENTATIVE OF CONTRACTOR

The following principals of Contractor are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith: It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for the City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the foregoing principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of the City.

18. PROHIBITION OF ASSIGNMENT

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily

or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of the City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of the City.

19. INDEPENDENT CONTRACTOR

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its subcontractors, agents or employees, performs the services required herein, except as otherwise set forth herein. The City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, subcontractors, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of the City and shall remain at all times as to the City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its subcontractors, agents or employees are agents or employees of the City. The City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venture or a member of any joint enterprise with Contractor.

20. UNFAIR BUSINESS PRACTICE CLAIMS

In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body renders final payment to the contractor without further acknowledgment by the parties. (Sec. 7103.5, California Public Contract Code).

21. SEVERABILITY

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

22. HIRING OF ILLEGAL ALIENS PROHIBITED

Contractor shall not hire or employ any person to perform work within the City of Victorville or allow any person to perform work required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States.

22. WAIVER

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

23. WARRANTY

Bidders shall provide, in writing a warranty on all labor as well as the manufacturer's warranties on all equipment and materials used.

24. WORK NOT LISTED IN PROPOSAL

It is the intent of the specifications and contract documents to provide for auto body repair services, unless otherwise specifically provided. Except for authorized changes in the work, payment for said completed services and work will be made only on the basis of the contract items of work stated in the proposal. All other work, including the labor, materials, tools, equipment, and incidentals, provided for in the specifications and contract documents or required for the proper completion of the work as a whole, for which no separate payment has been provided shall be a supplementary obligation of the contractor and payment therefore shall be considered included in the prices paid for the various contract items of work listed in the bid.

**Each change order shall have the written approval of the Director of Public Works and Water, or his designee, prior to beginning the work referenced by said change order. Work shall not begin until the issuance of a notice to proceed in the form of a purchase order.**

25. DISPUTES

Any controversy or claim arising out of or relating to the provisions of this Agreement or the breach thereof shall be settled by arbitration, in accordance with the Rules of the American Arbitration Association, unless the parties agree, in writing, to some other form of alternative dispute resolution.

26. ENTIRE AGREEMENT

This contract, including any attachments hereto, constitutes the sole and only agreement between the parties. It correctly sets forth the obligations of the parties to each other in respect to any such matters as of this date. Any agreements, discussions, statements, or representations of any kind between the parties respecting any such matters, not expressly set forth, in this agreement are null and void.

CITY OF VICTORVILLE  
**SPECIFICATIONS - BID PROPOSAL FORM**

**ANNUAL SERVICE AGREEMENT  
 AUTO BODY REPAIR SERVICES - PROJECT # ES15-065**

The undersigned hereby agrees to provide the services listed below in accordance with the specifications which are incorporated herein.

This bid neither implies, nor guarantees a specific level of usage, if any, under this agreement. The listed items are provided as best estimate of usage by City of Victorville. They are provided as a parameter for bidders to formulate their quotations. Bidders shall include any/or all Government, volume or applicable discounts, to include any value added features. Unit pricing provided shall remain valid for the term of this contract regardless of usage.

Description			
PLEASE RESPOND TO THE FOLLOWING ITEMS (attach additional sheets if necessary):			
1. Labor/Shop rates per hour \$ _____			
2. State below charges to repair example vehicle per described work: For the purpose of comparing bids, each bidder is to provide the following job cost information.			
a) Cost for job shall include all costs for materials/labor			
b) Cost for parts shall be quoted from current manufacturers price list or vendor invoice and may include 5% overhead markup.			
c) Refinishing paints shall be of Single Stage Topcoat type or equal.			
d) Parts replaced shall be factory O.E.M. only.			
STATE BELOW CHARGES TO REPAIR STATED VEHICLE PER DESCRIBED WORK:			
<b>A. <u>VEHICLE:</u></b>			
<b>2014 Ford Explorer Police Interceptor</b>			
WORK TO BE DONE	LABOR HRS.	PAINT HRS.	PAINT MAT HRS.
1. Replace left lower control arm & align			
2. Replace radiator core support			
3. Correct alignment due to frame out of specification as a result of impact			
4. Paint Materials			
5. Blend, Buff, Cover Vehicle, Hazardous Waste			
6. Clear Coat			
		LABOR COST	\$
		MATERIAL COST	\$
		TAX	\$
		TOTAL COST	\$

STATE BELOW CHARGES TO REPAIR STATED TRUCK PER DESCRIBED WORK:

**B. TRUCK:**

**2015 – Ford F-150 Extended Cab Long Bed (aluminum)**

WORK TO BE DONE	LBR HRS	PAINT HRS	PAINT MAT. HRS
1. Repair right front fender			
2. Replace right front fender			
3. Repair 1/8 deep crease, the full Length of the right bed side (8')			
4. Replace tailgate			
5. Replace driver's door hinges			
6. Paint Materials			
7. Blend, Buff, Cover Vehicle, Hazardous Waste			
8. Clear Coat			
		LABOR COST	\$
		PARTS COST	\$
		MATERIAL COST	\$
		TAX	\$
		TOTAL COST	\$

**TOTAL OF A AND B ABOVE \$** \_\_\_\_\_

3. STATE BELOW HOURLY LABOR RATE PER "The National Estimating Guide"

DESCRIPTION OF WORK	STANDARD LABOR COST PER HOUR	CITY COST PER HOUR
BODY	\$	\$
PAINT	\$	\$
PAINT MATERIALS	\$	\$
FRAME	\$	\$
MECHANICAL	\$	\$

4. Onsite estimates at our facility, free of charge Yes \_\_\_\_\_ No \_\_\_\_\_

5. Charge for towing of inoperable vehicle from City's facility to vendor's shop: \$ \_\_\_\_\_

BIDDER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ EMAIL: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

**CITY OF VICTORVILLE  
ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT #  
ES15-065**

**SECTION 3 – FORMS  
SUBMISSION CERTIFICATION**

I hereby submit to the City of Victorville the following bid proposal for work outlined in plans and specifications entitled “**ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT # ES15-065**”. All of the following documents (check below) are completed, fully executed, and included in my bid as required in the bid document:

- Submission Certification (Page 15)
- Bid Proposal Form (Page 12-14)
- Proposer Guarantees (Page 16)
- Proposer Identification (Page 17)
- Non-Collusion Affidavit (Page 18) (***Must be notarized***)
- Exception Form (Page 19)
- Addenda Acknowledgment (Page 20)
- Customer References (Page 21)
- Additional Information (If applicable) (Page 22)
- Guaranty (Page 23)

My signature on this Submittal Certification is affirmation that all items listed above are fully completed and executed and are hereby submitted with the proposal as required. I understand that failure to complete and/or submit any of the required documents may be cause for rejection of my bid proposal.

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Business Name	
Authorized Signature	Printed Name and Title
Date Signed	Telephone Number

**CITY OF VICTORVILLE  
ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT #  
ES15-065**

**PROPOSER GUARANTEES**

- A. The Proposer certifies it can and will provide and make available, as a minimum, all services set forth in the RFP Number **ES15-065, ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES.**
  
- B. Proposer further certifies that all information provided by and in connection with this Proposal is true and accurate.

Signature of Official: \_\_\_\_\_

Name (typed): \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF VICTORVILLE  
ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT #  
ES15-065  
PROPOSER IDENTIFICATION**

1. Legal name of the Company: \_\_\_\_\_
2. Street Address: \_\_\_\_\_
3. Mailing Address: \_\_\_\_\_
4. Business Telephone: \_\_\_\_\_
5. Facsimile Telephone: \_\_\_\_\_
6. Email Address: \_\_\_\_\_
7. Type of Business:  
 Sole Proprietor    Partnership    Corporation  
Other: \_\_\_\_\_  
If corporation, indicate State where incorporated: \_\_\_\_\_
8. Business License number issued by the City where the Proposer's principal place of business is located.  
Number: \_\_\_\_\_ Issuing City: \_\_\_\_\_
9. Federal Tax Identification Number: \_\_\_\_\_
10. Proposer's Project Manager: \_\_\_\_\_

**CITY OF VICTORVILLE**  
**ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT #**  
**ES15-065**  
**NON-COLLUSION AFFIDAVIT**  
**(Per Public Contract Code Section 7106)**

State of California )  
) ss.  
County of \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, deposes and says that he or she is \_\_\_\_\_, of \_\_\_\_\_ ("Proposer") the party making the foregoing proposal that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly solicited any other Proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposers or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal fee of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the proposal fee, or of that of any other Proposer, or to secure any advantage against the public body making the award of anyone interested in the proposed award; that all statements contained in the proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted his or her proposal fee or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature	Company Name
Printed Name	Title

SUBSCRIBED AND SWORN TO BEFORE ME

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public (Seal)

**CITY OF VICTORVILLE  
ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT #  
ES15-065  
EXCEPTION FORM**

Should Proposer take exception to **ANY** of the terms and conditions or other contents provided in this ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT # ES15-065, list the exceptions below. **THIS COMPLETED FORM MUST BE RETURNED WITH YOUR PROPOSAL.** If no exception(s) are taken, enter "**NONE**" for the first item. *(Make additional copies of this form as necessary)*

Page Number: \_\_\_\_\_ Section Title: \_\_\_\_\_

Paragraph Number: \_\_\_\_\_ Exception Taken: \_\_\_\_\_

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Page Number: \_\_\_\_\_ Section Title: \_\_\_\_\_

Paragraph Number: \_\_\_\_\_ Exception Taken: \_\_\_\_\_

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Page Number: \_\_\_\_\_ Section Title: \_\_\_\_\_

Paragraph Number: \_\_\_\_\_ Exception Taken: \_\_\_\_\_

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**CITY OF VICTORVILLE  
ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT #  
ES15-065  
ADDENDA ACKNOWLEDGMENT**

The undersigned acknowledges receipt of the following ADDENDA, as applicable:

ADDENDUM NO. \_\_\_\_\_ DATED \_\_\_\_\_

Name of Proposer: \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

By: \_\_\_\_\_

Signature

Title

**CITY OF VICTORVILLE  
ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT #  
ES15-065  
CUSTOMER REFERENCES**

Proposer: \_\_\_\_\_

<b>LIST A MIMIMUM OF THREE PUBLIC AGENCY REFERENCES FOR WHOM YOU HAVE PROVIDED SIMILAR SERVICES</b>		
<b>1.</b>	Name of Agency	
	Address	
	Contact Person Name:	
	Contact Person Phone:	
	Fax	
	Email Address:	
	Project Description:	
<b>2.</b>	Name of Agency	
	Address	
	Contact Person Name:	
	Contact Person Phone:	
	Fax	
	Email Address:	
	Project Description:	
<b>3.</b>	Name of Agency	
	Address	
	Contact Person Name:	
	Contact Person Phone:	
	Fax	
	Email Address:	
	Project Description:	



**CITY OF VICTORVILLE  
ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES - PROJECT #  
ES15-065  
GUARANTY**

TO THE CITY OF VICTORVILLE, CALIFORNIA

The undersigned guarantees the completion of **“Project ES15-065  
ANNUAL SERVICE AGREEMENT FOR AUTO BODY REPAIR SERVICES.**

Should any of the work as a whole prove defective, due to faulty workmanship within twelve (12) months after date on which this Contact is accepted by the City, the undersigned agrees to reimburse the City, upon demand, for its expenses incurred in restoring said work to the condition contemplated in said project, including the cost of any such work necessary to make such replacement or repairs, or, upon demand by the City, to replace any such materials and to repair said work completely without cost to the City so that said work will function successfully as originally contemplated.

The City shall have the unqualified option to make any needed replacements or repairs itself or to have such replacements or repairs done by the undersigned.

In the event the City elects to have said work performed by the undersigned, the undersigned agrees that the repairs shall be made and such materials as are necessary shall be furnished and installed within the time limit designated by the City. If the undersigned shall fail or refuse to comply with their obligations under this guaranty, the City shall be entitled to all costs and expenses, including attorney's fees, reasonably incurred by reason of said failure or refusal.

SIGNED: \_\_\_\_\_  
CONTRACTOR

By: \_\_\_\_\_ Title: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

NOTE: This Guaranty shall be executed by the successful proposer in accordance with instructions in the Special Provisions. The proposer may execute the Guaranty on this page at the time of submitting the bid.



**SAMPLE  
GENERAL SERVICES PROVIDER AGREEMENT  
BY AND BETWEEN  
THE CITY OF VICTORVILLE  
AND  
SERVICE PROVIDER**

TITLE OF PROJECT

**THIS GENERAL SERVICES PROVIDER AGREEMENT** (hereinafter “Agreement”), is made and entered into by and between the City of Victorville, a municipal corporation located in the County of San Bernardino, State of California, hereinafter referred to as the “City”, and **SERVICE PROVIDER**, a **STATE FORM OF BUSINESS**, hereinafter referred to as “Service Provider.” City and Service Provider are sometimes hereinafter referred to individually as a “Party” and collectively referred to as the “Parties.”

**RECITALS:**

**WHEREAS**, the City requires **DESCRIBE SERVICES**, for **DESCRIBE PROJECT** and;

**WHEREAS**, in light of the facts set forth above, the City desires to retain the services of a qualified service provider to provide, on an independent contractor basis, **DESCRIBE SERVICES**.

**NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:**

**Section 1. RECITALS**

The Recitals set forth above are true and correct and are hereby incorporated into this Agreement by this reference, as though set forth fully herein.

**Section 2. SCOPE OF SERVICES**

Service Provider shall provide to the City those services set forth in the Scope of Services, attached hereto as Exhibit “A”, and incorporated as part of this Agreement by this reference.

### **Section 3. COMPENSATION**

The City shall pay a total amount of \_\_\_\_\_ DOLLARS (\$0,000,000.00) for the services rendered by Service Provider pursuant to this Agreement, subject to the provisions of Section 4.

### **Section 4. PAYMENT SCHEDULE**

The City shall pay Service Provider as provided in the Payment Schedule, attached hereto as Exhibit "B," and incorporated as part of this Agreement by this reference (as maybe applicable). The provisions of Exhibit "B" notwithstanding, in order to receive payments, Service Provider shall be required to submit to City monthly invoices detailing all services performed. Provided that services have been satisfactorily rendered, invoices shall be paid by the City approximately thirty (30) working days following receipt of Service Provider's invoice.

### **Section 5. PERFORMANCE SCHEDULE**

Service Provider shall perform the services required under this Agreement as provided in the Performance Schedule, attached hereto as Exhibit "C," (as maybe be applicable) and incorporated as part of this Agreement by this reference.

### **Section 6. TERM OF AGREEMENT**

This Agreement shall be for a initial term of **NUMBER OF DAYS, MONTHS, ETC.**, commencing on **COMMENCEMENT DATE** (the "Commencement Date") and expiring on **TERMINATION DATE** (the "Termination Date") (the "Term"), unless terminated earlier pursuant to Section 21 of this Agreement. From and after the Termination Date, and upon subsequent agreement by the Parties, this Agreement may continue on a month-to-month basis until terminated pursuant to Section 21 below.

This Agreement may be extended for **four (4)**. additional one-year periods (hereinafter "Option Periods"), at the option of City, subject to satisfactory performance as determined by the City. City shall give Service Provider sixty (60) days advance written notice prior to the expiration the initial Term and sixty (60) days advance written notice prior to the expiration date of each subsequently exercised Option Period, if any, should the City decide to exercise its option(s) to extend. In the event City does not give Service Provider such written notice of its option to extend, this Agreement shall terminate at the end of the then-current Term or Option Period without further notice from either Party, unless terminated earlier pursuant to the provisions of Section 21 below. Should the City fail to give Service Provider the sixty (60) days written notice of its intention to exercise any Option Period, the City may, in its sole discretion, elect to exercise any Option Period at a later date, following written inquiry from Service Provider.

## **Section 7. INDEPENDENT CONTRACTOR STATUS**

Service Provider shall at all times during the Initial Term of this Agreement, and (if applicable during any Option Periods), perform the services described in this Agreement as an independent contractor.

## **Section 8. REPRESENTATIONS AND ACKNOWLEDGMENTS REGARDING INDEPENDENT CONTRACTOR'S STATUS OF SERVICE PROVIDER**

a. Service Provider represents and acknowledges the following:

(1) The City is not required to provide any training or legal counsel to Service Provider or its employees in order for Service Provider to perform the services described in this Agreement.

(2) Performance of the services described in this Agreement do not have to be integrated into the daily business operations of the City.

(3) The services described in this Agreement can be performed without the use of City equipment, materials, tools, or facilities, unless otherwise provided under a separate agreement.

(4) Nothing in this Agreement shall be interpreted to imply that the City must maintain any contractual relationship with Service Provider on a continuing basis after termination of this Agreement.

(5) The City will not be requested or demanded to assume any liability for the direct payment of any salary, wage, or other such compensation to any person employed by Service Provider to perform the services described in this Agreement.

(6) Service Provider shall not at any time or in any manner represent that it or any of its officers, employees, or agents are employees of the City.

(7) Service Provider is required to comply with daily instructions from City staff with respect to when, where or how Service Provider must perform the services set forth in this Agreement.

b. The City represents and acknowledges the following:

(1) Service Provider is solely responsible for determining who, under the supervision or direction of Service Provider, will perform the services set forth in this Agreement.

(2) The City will not hire, supervise, or pay any employees or assistants working for Service Provider pursuant to this Agreement. Nothing contained

in this Agreement shall prevent the City from hiring Service Provider's employees or assistants after termination of this Agreement.

(3) Nothing in this Agreement shall be interpreted to imply that Service Provider must maintain any contractual relationship with the City on a continuing basis after termination of this Agreement.

(4) It is the sole responsibility of Service Provider to set the hours in which Service Provider performs or plans to perform the services set forth in this Agreement.

(5) Service Provider is not required to devote full time to the business operations of the City in order to perform the services set forth in this Agreement.

(6) Unless deemed necessary under certain circumstances, Service Provider is not required to perform the services set forth in this Agreement at City Hall or on City-owned property.

(7) Nothing in this Agreement shall be interpreted to preclude Service Provider from working for other persons or firms, provided that such work does not create a conflict of interest.

#### **Section 9. NOT AGENT OF THE CITY**

a. Nothing contained in this Agreement shall be deemed, construed, or represented by the City or Service Provider or by any third person to create the relationship of principal and agent.

b. Service Provider shall have no authority, express or implied, to act on behalf of the City in any capacity whatsoever as an agent, nor shall Service Provider have any authority, express or implied, to bind the City to any obligation whatsoever.

#### **Section 10. LICENSES AND PERMITS**

Service Provider represents that it has obtained and will maintain at all times during the initial Term, and (If Applicable, during any Option Periods) of this Agreement all business licenses, including but not limited to a City of Victorville business license, certifications, or permits necessary for performing the services described in this Agreement.

#### **Section 11. WARRANTY**

Service Provider agrees to perform all services required by this Agreement in a workmanlike competent and satisfactory manner in accordance with the standards prevalent in the industry for such services.

## **Section 12. FAMILIARITY WITH WORK**

Should Service Provider discover any latent or unknown conditions materially differing from those inherent in the services or as represented by the City, Service Provider shall immediately inform the City of such fact and shall not provide any services, except at Service Provider's risk, until written instructions are received from **DEPT. HEAD** or his or her designee.

## **Section 13. CONFLICTS OF INTEREST**

Service Provider covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Service Provider's services under this Agreement. Service Provider further covenants that in the performance of services under this Agreement, no officer, employee or agent of Service Provider having such an interest shall be employed by it. In the event the City determines that Service Provider must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Service Provider shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk.

## **Section 14. COMPLIANCE WITH LAWS**

Service Provider shall comply with all local, state, and federal laws and regulations applicable to the services to be rendered hereunder, including any rule, regulation, or bylaw governing the conduct or performance of Service Provider or its employees, officers, or board members.

## **Section 15. COMPREHENSIVE GENERAL AND AUTOMOBILE LIABILITY INSURANCE**

a. Service Provider shall procure and maintain at its own expense, during the initial Term of this Agreement, and (if applicable, during any Option Periods), comprehensive general liability insurance, of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, for bodily injury, personal injury, death, loss, or damage resulting from the wrongful or negligent acts by Service Provider or its officers, employees, servants, volunteers, and agents and independent contractors.

b. Service Provider shall further procure and maintain, at its own expense, during the initial Term of this Agreement, and (if applicable, during any Option Periods) commercial vehicle liability insurance covering personal injury and property damage, of not less than One Million Dollars (\$1,000,000) combined single limit, covering any vehicle utilized by Service Provider or its officers, employees, servants, volunteers, agents and independent contractors in performing the services required by this

Agreement.

**Section 16. WORKERS' COMPENSATION INSURANCE**

a. Service Provider shall procure and maintain at its own expense, during the initial Term of this Agreement, and (if applicable, during any Option Periods), workers' compensation insurance, providing coverage as required by the California State Workers' Compensation Law.

b. If any class of employees employed by the Service Provider pursuant to this Agreement is not protected by the California State Workers' Compensation Law, Service Provider shall provide adequate insurance for the protection of such employees to the satisfaction of the City.

**Section 17. RESERVED**

**Section 18. ADDITIONAL NAMED INSURED**

Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, all insurance policies, except for the Workers' Compensation policy, shall be endorsed to name the City and its officers, employees, servants, volunteers, agents and independent contractors, including, without limitation, the City Attorney, as Additional Insureds.

**Section 19. WAIVER OF SUBROGATION RIGHTS**

Service Provider shall require the carriers of all required insurance policies to waive all rights of subrogation against the City and its officers, employees, servants, volunteers, agents, and independent contractors and subcontractors. Each policy of insurance shall be endorsed to reflect such waiver.

**Section 20. PROOF OF INSURANCE COVERAGE;  
REQUIRED ENDORSEMENTS**

a. Service Provider shall secure from a good and responsible company or companies authorized to transact insurance business in the State of California, the policies of insurance required by this Agreement and furnish to the City Clerk certificates of insurance evidencing the required coverage, and policy endorsements at least one (1) business day prior to the commencement of any services to be performed under this Agreement.

b. The policies and certificates of insurance shall be endorsed to provide that in the event of cancellation or amendment of any required insurance policy for any reason whatsoever, the City shall be notified by mail, postage prepaid, not less than thirty (30) days before the cancellation or amendment is effective. In the case of cancellation for non-payment, ten (10) days advance written notice shall be given.

c. Each policy and certificate of insurance shall be endorsed to provide that the policy shall not be terminated or expire without first providing thirty (30) days written notice to the City of such termination or expiration.

d. Each policy and certificate of insurance shall be endorsed to provide that the policy will be maintained throughout the Initial Term, and (if applicable during any Option Periods) of this Agreement.

e. The comprehensive general liability and vehicle liability policies shall be endorsed to contain the following provision: "For any claims related to this Agreement, Service Provider's coverage shall be primary with respect to the City. Any insurance maintained by the City shall be in excess of Service Provider's insurance and shall not contribute with it."

### **Section 21. TERMINATION OR SUSPENSION**

a. This Agreement may be terminated or suspended without cause by either Party at any time, provided that the Party initiating the termination provides the other Party at least thirty (30) days advance written notice of such termination or suspension. In the event of such termination, the City shall only be liable for payment under the payment provisions of this Agreement for satisfactory services rendered or supplies actually furnished prior to the effective date of termination.

b. This Agreement may be terminated or suspended with cause by either Party at any time, provided that the Party initiating termination provides the other Party at least ten (10) days advance written notice of such termination or suspension. In the event of such termination, the City shall only be liable for payment under the payment provisions of this Agreement for satisfactory services rendered or supplies actually furnished prior to the effective date of termination.

### **Section 22. TIME OF THE ESSENCE**

Time is of the essence in the performance of this Agreement.

### **Section 23. INDEMNIFICATION**

a. Service Provider shall defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents, from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and attorneys fees, for any personal injuries, deaths, or property damage (including property owned by the City), which may arise out of Service Provider's negligence or willful misconduct in the performance of the services described in this Agreement, unless such losses or damages are proven to be caused by the City's own negligence or willful misconduct, or that of its officers or employees.

b. The City does not and shall not waive any rights that it may have against Service Provider under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

#### **Section 24. REPORTS**

Upon request by **DEPT. HEAD** or his/her designee, Service Provider shall prepare and submit reports to the City concerning Service Provider's performance of the services required by this Agreement.

#### **Section 25. RECORDS**

a. Service Provider shall keep such books and records as shall be necessary to perform the services required by this Agreement and enable **DEPT. HEAD** or his or her designee to evaluate the cost and the performance of such services.

b. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles.

c. **DEPT. HEAD** or his or her designee shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

d. Records and supporting documents pertaining to the use of funds paid to Service Provider hereunder shall be retained by Service Provider and made available to **DEPT. HEAD** or his or her designee for purposes of performing an audit for a period of five (5) years from the date of termination of this Agreement.

#### **Section 26. RESERVED**

#### **Section 27. CONFIDENTIALITY**

a. Any and all documents and information obtained from the City or prepared by Service Provider for the City shall be kept strictly confidential unless otherwise provided by applicable law. All City data, documents and information shall be returned to City upon termination of the Agreement.

b. Any drawings, specifications, reports, records, documents, or other materials prepared by Service Provider in the performance of services under this Agreement shall not be released publicly without the prior written approval of **DEPT. HEAD** or as required by applicable law.

c. Service Provider shall not disclose to any other entity or person any information regarding the activities of the City, except with the prior written approval of **DEPT. HEAD** or as required by applicable law.

### **Section 29. PRINCIPAL REPRESENTATIVES**

a. **SERVICES REP.** is designated as the principal representative of Service Provider for purposes of communicating with the City on any matter associated with the performance of the services set forth in this Agreement.

b. **DEPT. HEAD** shall be the principal representative(s) of the City for purposes of communicating with Service Provider on any matter associated with the performance of the services set forth in this Agreement.

c. Either Party may designate another individual as its principal representative by giving written notice of such designation to the other Party.

### **Section 30. MODIFICATIONS AND AMENDMENTS**

This Agreement may be modified or amended only by a written instrument signed by both Parties.

### **Section 31. ENTIRE AGREEMENT**

a. This Agreement supersedes any and all prior or contemporaneous agreements, either oral or written, between the City and Service Provider with respect to the subject matter of this Agreement.

b. This Agreement contains all of the covenants and agreements between the Parties with respect to the subject matter of this Agreement, and each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements in this Agreement.

c. No agreement, statement, or promise with respect to the subject matter of this Agreement, which is not contained in this Agreement, or in a valid modification or amendment to this Agreement, shall be valid or binding on either Party.

### **Section 32. AMBIGUITIES**

This Agreement is in all respects intended by each Party hereto to be deemed and construed to have been jointly prepared by the Parties and the Parties hereby expressly agree that any uncertainty or ambiguity existing herein shall not be interpreted against either of them. Except as expressly limited by this paragraph, all of the applicable rules of interpretation of contract shall govern the interpretation of any

uncertainty or ambiguity of this Agreement.

**Section 33.                  NOTICES**

a. Any notice to be provided pursuant to this Agreement shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

To the City:                  **DEPT. HEAD  
TITLE  
REQUESTING Department.....  
City of Victorville  
14343 Civic Drive  
Victorville, CA 92392**

To Service Provider:      **REPRESENTATIVE.....  
COMPANY.....  
ADDRESS.....  
CITY, CA ZIP CODE.....**

b. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

**Section 34.                  NON-LIABILITY OF CITY OFFICERS  
AND EMPLOYEES**

No officer or employee of the City shall be personally liable to Service Provider, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to Service Provider or to its successor(s), or for any breach of any obligation of the terms of this Agreement.

**Section 35.                  REVIEW BY ATTORNEYS**

Each Party hereto has had its attorney(s) review this Agreement and all related documents. Each Party hereto has consulted with its attorney(s) and has negotiated the terms of this Agreement based on such consultation.

**Section 36.                  WAIVER**

a. No waiver shall be binding unless executed in writing by the Party making the waiver.

b. No waiver of any provision of this Agreement shall be deemed, or shall

constitute, a waiver of any other provision, whether similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision.

c. Failure of either Party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of such provision or any of the remaining provisions of this Agreement.

### **Section 37. ASSIGNMENT**

This Agreement shall not be assigned by either Party without prior written consent of the other Party.

### **Section 38. CARE OF WORK**

The performance of services by Service Provider or the payment of money by the City shall not relieve Service Provider from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to the City, when such incomplete, inaccurate or defective work is due to the negligence of Service Provider.

### **Section 39. CAPTIONS AND HEADINGS**

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

### **Section 40. SUCCESSORS, HEIRS, AND ASSIGNS**

Except as otherwise expressly provided herein, this Agreement shall be binding upon the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties to this Agreement and, likewise, shall inure to the benefit of the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties.

### **Section 41. GENDER**

In this Agreement, unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall include one another.

### **Section 42. SEVERABILITY**

If any one or more of the sentences, clauses, paragraphs, or sections contained herein is declared invalid, void, or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair, or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

### **Section 43. GOVERNING LAW**

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Parties under this Agreement, shall be construed pursuant to and in accordance with California law.

### **Section 44. DEFAULT**

a. Failure or delay by any Party to this Agreement to perform any material term or provision of this Agreement shall constitute a default under this Agreement; provided however, that if the Party who is otherwise claimed to be in default by the other Party commences to cure, correct, or remedy the alleged default within fifteen (15) days after receipt of written notice specifying such default and shall diligently complete such cure, correction, or remedy, such Party shall not be deemed to be in default hereunder.

b. The Party claiming that a default has occurred shall give written notice of default to the Party in default, specifying the alleged default. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default; provided, however, the injured Party shall have no right to exercise any remedy for a default hereunder without delivering the written default notice, as specified herein.

c. Any failure or delay by a Party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any rights or remedies associated with a default.

d. In the event that a default by any Party to this Agreement may remain uncured for more than fifteen (15) days following written notice, as provided above, the injured Party shall be entitled to seek any appropriate remedy or damages by initiating legal proceedings.

### **Section 45. CUMULATIVE REMEDIES**

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

### **Section 46. VENUE**

All proceedings involving disputes over the terms, provisions, covenants, or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court

or forum in San Bernardino County, California.

**Section 47. ATTORNEYS' FEES**

In the event any action, suit, or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement, or as a result of any alleged breach of any provision of this Agreement, the prevailing Party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, from the losing Party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

**Section 48. EFFECTIVENESS OF AGREEMENT**

This Agreement shall not be binding upon the City, until signed by the authorized representative(s) of Service Provider, approved by the City's Risk Manager, and executed by the authorized City personnel or Mayor.

**Section 49. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING AGREEMENT**

(a) Each of the Parties to this Agreement hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Agreement a binding obligation of each of the Parties hereto.

(b) The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the Parties each purports to represent.

**Section 50. COUNTERPARTS**

This Agreement may be executed by the parties in counterparts, and when executed by each of the parties, each counterpart shall be deemed to be a part of this Agreement.

[END OF THIS PAGE]

**IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the dates written below.**

**THE CITY OF VICTORVILLE**

**SERVICE PROVIDER**

\_\_\_\_\_  
**By: MAYOR**

\_\_\_\_\_  
**By: SERVICE PROVIDER'S  
AUTHORIZED REP**

**DATED:** \_\_\_\_\_

**DATED:** \_\_\_\_\_

**ATTEST**

\_\_\_\_\_  
**CAROLEE BATES, CITY CLERK**

**Dated:** \_\_\_\_\_

**CITY OF VICTORVILLE'S RISK MANAGER  
CHUCK BUQUET**

**AS TO FORM  
ANDRE de BORTNOWSKY,  
CITY ATTORNEY**

\_\_\_\_\_  
**DATED:** \_\_\_\_\_

\_\_\_\_\_  
**DATED:** \_\_\_\_\_

EXHIBIT A

**SCOPE OF SERVICES**

See Attachment

SAMPLE

EXHIBIT B

**PAYMENT SCHEDULE**

See Attachment

SAMPLE

EXHIBIT C

**PERFORMANCE SCHEDULE**

See Attachment

SAMPLE